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December 11, 2023

The Honorable Lorna G. Schofield
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: In re Clara Moussa Boustany, No. 23 Misc. 203 (LGS) (S.D.N.Y.)

Dear Judge Schofield:

We have recently been retained by JP Morgan Chase & Co. (“JPMCC”) to represent it in connection with the above matter, which is an *ex parte* application by Applicant Clara Boustany for discovery under 28 U.S.C. § 1782. Ms. Boustany seeks records for accounts at an unidentified JP Morgan entity that are allegedly held by her husband, Fadi Boustany, and companies he controls.

On November 3, Your Honor ordered that Ms. Boustany serve her application and supporting papers on JPMCC and “JP Morgan Private Bank” and that they file any response by December 12. (ECF No. 8.) Unfortunately, no JP Morgan entity is able to respond substantively to the application because (i) the proposed subpoena was filed and served in redacted form, and (ii) neither JP Morgan entity named is a proper respondent to this application. We address each point in turn.

First, the redacted application and subpoena that Ms. Boustany filed and served prevents JPMCC from understanding the scope of the requested information. (See ECF Nos. 1–3.) In particular, the proposed subpoena seeks account records for multiple bank accounts but redacts the account numbers. Without the account numbers, we cannot ascertain what, if any account documents, exist, much less what JP Morgan entity has possession, custody, or control of them.

Second, JPMCC is not a proper respondent because it is a holding company with no operations—and thus no account records—that does not have possession, custody, or control over its subsidiaries’ documents. Applications under 28 U.S.C. § 1782 served on JPMCC are thus routinely quashed. *See, e.g., In re FourWorld Event Opportunities Fund, L.P.*, 2023 WL 3375140 (S.D.N.Y. May 11, 2023) (Oetken, J.); *In re Mun*, 2022 WL 17718815 (S.D.N.Y. Dec. 15, 2022) (Cote, J.); *In re Liverpool Ltd. P’ship*, 2021 WL 5605044 (S.D.N.Y. Nov. 24, 2021) (Nathan, J.). Nor is there any basis for Section 1782 relief against Ms. Boustany’s other subpoena

target, “JP Morgan Private Bank,” because that is a trade name, not a distinct legal entity.

If Mr. Boustany, or companies he controls, has accounts at a JP Morgan entity within this district, we would accept service of a subpoena on that entity—while reserving that entity’s rights to object and move to quash, including all rights to object on the grounds that the petition does not satisfy the requirements of 28 U.S.C. § 1782—but we cannot ascertain whether that is the case without more information.

We therefore respectfully request that Ms. Boustany be ordered to promptly send us the application in unredacted form so that we may determine if any of the bank accounts at issue are with a proper U.S. entity operating within this district and, if appropriate, meet and confer with Ms. Boustany about serving a subpoena on the correct U.S. entity. Given the upcoming holidays, we propose that JPMCC’s response date be reset one month, until January 12, to give us time to complete that process and serve a formal response if necessary.

We are available to discuss at the Court’s convenience.

Respectfully,

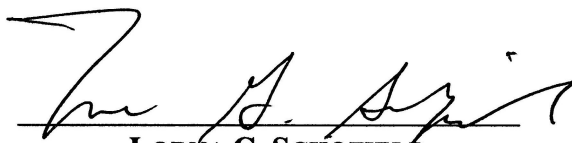
/s/ Abby F. Rudzin

Abby F. Rudzin
of O’MELVENY & MYERS LLP

cc: All counsel of record via ECF

Application GRANTED in part. By **December 14, 2023**, Petitioner shall serve an unredacted copy of the application on Respondent JPMCC. JPMCC shall file any responsive papers by **January 5, 2024**. Petitioner shall file any reply to JPMCC’s response by **January 12, 2024**. So Ordered.

Dated: December 12, 2023
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE